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Government Has Right To Bar Data — Court

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After 187 years, it is finally official: The government has no constitutional duty to tell the press and the public anything.

That became official yesterday when the Supreme Court declared that the Constitution's First Amendment is not a "freedom of information act."

In finally settling that question, the court issued its second ruling within a month against press claims to special constitutional protection.

In the earlier ruling, which Congress is now trying to undo in part, the justices declared that the press has no special protection against police searching for evidence of a crime.

If the press wants to try to undo yesterday's decision, it apparently must go to Congress again.

Press and public access to information that government officials are trying to hold back may be sought from Congress and state and local legislatures, not the courts, the justices said in their 4-3 ruling.

The basic issue of access, though one that has lingered behind government-press relations for generations, had never been raised in the court in a direct way before.

IT WAS PUT BEFORE the justices in a test case on a San Francisco area public TV station's attempt to investigate conditions at the Alameda County jail in Santa Rita.

If the jail is open to the public, it may be opened to the press, too, the justices ruled. If it is not open to the public, the press need not be let in, either, according to the decision.

The court repeated its constitutional conclusion that officials can't stop the press from publishing what it has learned, about government or anything else.

But, it said, nothing in its past rulings "implied a special privilege of access to information as distinguished from a right to publish information which has been obtained."

The court, Chief Justice Warren E. Burger wrote, "has never intimated a First Amendment guarantee of a right of access to all sources of information within government control."

Prior decisions, he added, "did not remotely imply a constitutional right guaranteeing anyone access to government information beyond that open to the public generally."

Yesterday's ruling came with only seven justices participating because two had disqualified themselves, without giving reasons. The seven split 4-3 on the basic constitutional issue.

Because of a quirk in the ruling, the court appeared to have voted 4-3 to give the press some assurance that, if it is allowed access to publicly available information about government, it might be permitted to use

more flexibility in its access than the public in general.

For example, news media representatives might be allowed to bring in cameras and tape recorders, whereas the general public might not.

That result seemed to emerge because Justice Potter Stewart, who voted to make a majority on the constitutional question, said he would give the press some special consideration if it needed it to have "effective" access to the same things open to the general public.

While Stewart spoke only for himself, it was clear that the three dissenting justices, who wanted even more protection for the press, would support at least as much as Stewart would give.

It was far from clear, however, whether that part of the ruling would be of real significance to the press. Of far more significance was the constitutional conclusion that government has no duty to disclose what it does not want to tell.

THE COURT ISSUED its ruling yesterday amid a stack of six decisions on pending cases. It did not say anything on the pending case on "reverse discrimination" based on race — the so-called "Bakke case."

The court will be in session again tomorrow, and could disclose its action on the Bakke case at that time. It is also likely to hold other sessions later in the week.

Its other rulings yesterday included:

- By a vote of 6-3, it upheld a 1957 law that sets a ceiling on damages that may be paid in the event of an accident at a nuclear power plant. Congress put the ceiling at \$560 million for any one accident.

- In another 6-3 ruling, it declared that government agencies have no duty to pay a property owner for designating a building or site as a landmark, thus taking away a chance to redevelop the structure or site for different uses. The decision came in a test case in which the owners of Grand Central Station in New York City had been thwarted in an attempt to build a 50-story tower above the station after it was named a landmark.

- The court cleared the way for a trial of a complaint that the late Sen. John L. McClellan, D-Ark., and three staff aides had violated a Kentucky couple's constitutional rights during an official Senate investigation. The court said simply that it had been wrong in agreeing to hear the case, which seemed to raise a basic question about legal immunity for members of Congress and their aides.

- By a 7-2 vote, it put police on notice to use some care when they apply for search warrants. The court ruled that a suspect has a limited right to challenge the accuracy of statements made by police in obtaining a war-

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